

IN THE CIRCUIT COURT OF THE STATE OF OREGON
For the County of Multnomah

Received Service:
Date 1/7/08 Time 3:58p
CE

Douglas N. Samuels,

Plaintiff,

v.

No. 0712-14381

THE STATE OF OREGON, by and through THE OREGON STATE BOARD OF
HIGHER EDUCATION, by and through PORTLAND STATE UNIVERSITY; and
ROY W. KOCH,

Defendant.

SUMMONS

To: Hardy Meyers, Attorney General
Oregon Department of Justice
1162 Court Street NE
Salem, OR 97301-4096

You are hereby required to appear and defend the complaint filed against you in the above entitled action within thirty (30) days from the date of service of this summons upon you, and in case of your failure to do so, for want thereof, plaintiff(s) will apply to the court for the relief demanded in the complaint.

NOTICE TO THE DEFENDANT: READ THESE PAPERS CAREFULLY!

You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal paper called a "motion" or "answer". The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff's attorney or, if the plaintiff does not have an attorney, proof of service upon the plaintiff.

If you have any questions, you should see an attorney immediately. If you need help in finding an attorney, you may call the Oregon State Bar's Lawyer Referral Service at (503) 684-3763 or toll-free in Oregon at (800) 452-7636.


SIGNATURE OF ATTORNEY/AUTHOR FOR PLAINTIFF

Glen McClendon, OSB # 73346

ATTORNEY/AUTHOR'S NAME (TYPED OR PRINTED) BAR NO. (IF ANY)

TRIAL ATTORNEY IF OTHER THAN ABOVE (TYPED OR PRINTED) BAR NO.

STATE OF OREGON

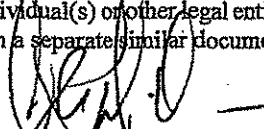
County of Multnomah

ss.

I, the undersigned attorney of record for the plaintiff, certify that the foregoing is an exact and complete copy of the original summons in the above entitled action.


ATTORNEY OF RECORD FOR PLAINTIFF(S)

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are hereby directed to serve a true copy of this summons, together with a true copy of the complaint mentioned therein, upon the individual(s) or other legal entity(ies) to whom or which this summons is directed, and to make your proof of service on the reverse hereof or upon a separate similar document which you shall attach hereto.


ATTORNEY(S) FOR PLAINTIFF(S)

Glen McClendon
Lindsay, Hart, Neil & Weigler, LLP
1300 SW Fifth Avenue, Suite 3400
Portland, Oregon 97201
Telephone: (503) 226-7677

PROOF OF SERVICE

STATE OF _____ }
County of _____ } ss.

I hereby certify that I made service of the foregoing summons upon the individuals and other legal entities to be served, named below, by delivering or leaving true copies of said summons and the complaint mentioned therein, certified to be such by the attorney for the plaintiff, as follows:

Personal Service Upon Individual(s)

Upon _____, by delivering such true copy to him/her, personally and in person, at _____, on _____, 2008, at _____ o'clock _____ M.

Upon _____, by delivering such true copy to him/her, personally and in person, at _____, on _____, 2008, at _____ o'clock _____ M.

Substituted Service Upon Individual(s)

Upon _____, by delivering such true copy at his/her dwelling house or usual place of abode, to-wit: _____, to

_____ who is a person over the age of 14 years and a member of the household of the person served on _____, 2008, at _____ o'clock _____ M.

Upon _____, by delivering such true copy at his/her dwelling house or usual place of abode, to-wit: _____, to

_____ who is a person over the age of 14 years and a member of the household of the person served on _____, 2008, at _____ o'clock _____ M.

Office Service Upon Individual(s)**

Upon _____, at the office which he/she maintains for the conduct of business at _____, by leaving such true copy with _____, the person who is apparently in charge, on _____, 2008, during normal working hours, at to-wit: _____ o'clock _____ M.

Service on Corporations, Limited Partnerships or Unincorporated Associations Subject to Suit Under a Common Name

Upon _____, by (a) delivering such true copy, personally and in person, to _____

(NAME OF CORPORATION, LIMITED PARTNERSHIP, ETC.)

_____ who is a/the * _____ thereof; OR (b) leaving such true copy with _____, the person who is apparently in charge of the office of

_____ who is a/the * _____ thereof; at _____, on _____, 2008, at _____ o'clock _____ M.

*Specify registered agent, officer (by title), director, general partner, managing agent.

DATED _____, 2008.

SHERIFF

DEPUTY

I further certify that I am a competent person 18 years of age or older and a resident of the state of service or the State of Oregon, and that I am not a party to nor an officer, director, or employee of, nor attorney for any party, corporate or otherwise; that the person, firm or corporation served by me is the identical person, firm or corporation named in the action.

DATED _____

SIGNATURE

TYPE OR PRINT NAME

ADDRESS

Phone _____

The signature lines on the left should be used only by an Oregon county sheriff or deputy; all other servers complete certificate on the right. The Proof of Service above contains most, but not all, of the methods of service. For example, this form does not include proof of service on a minor or incompetent person. See ORCP 7D(2) and 7D(3) for complete service methods on particular parties.

**Where substituted or office service is used, the plaintiff, as soon as reasonably possible, shall cause to be mailed a true copy of the summons and complaint to the defendant at the defendant's dwelling house or usual place of abode, together with a statement of the time, date and place at which such service was made. Use S-N Form No. 1149 or equivalent.

TRUE COPY

DEC - 5 2007

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

DOUGLAS N. SAMUELS,

Plaintiff,

v.

THE STATE OF OREGON, by and through
THE OREGON STATE BOARD OF HIGHER
EDUCATION, by and through PORTLAND
STATE UNIVERSITY; and ROY W. KOCH,

Defendants.

Case No. **0712-14381**

COMPLAINT

(Race Discrimination; Wrongful Discharge)

NOT SUBJECT TO MANDATORY
ARBITRATION

NATURE OF THE ACTION

1. This is an action under Section 1981 of the Civil Rights Act of 1866, 42 U.S.C. § 1981 and Title VII of the Civil Rights Act of 1964 as amended by the Civil Rights Act of 1991, 42 U.S.C. § 2000e, to correct unlawful employment practices, to vindicate plaintiff's rights and the rights of other employees to work in environments free from racial discrimination, and to make plaintiff whole.

2. Plaintiff's complaint includes causes of action under Oregon state discrimination law, ORS 659A.030, and for common law wrongful discharge.

PARTIES

3. Plaintiff Douglas Samuels is an individual residing in Clark County, Washington. He is African-American.

4. Defendant Portland State University (hereinafter, "PSU") is a state higher educational institution. Its principal place of business is Portland, Oregon. At all material times, defendant employed more than 500 employees.

1 5. At all times material herein, defendant State of Oregon, by and through the State
2 Board of Higher Education, operated and controlled an institution of higher education known as
3 Portland State University (hereinafter, "State of Oregon" is referred to as "defendant PSU").

4 6. Roy W. Koch was and is the Provost and Vice President of Academic Affairs at
5 Portland State University.

6 ADMINISTRATIVE EXHAUSTION

7 7. Plaintiff filed an administrative complaint with the Oregon Bureau of Labor and
8 Industries, Civil Rights Division, which was transferred to the Equal Employment Opportunities
9 Commission, ("EEOC") in which he alleged racial discrimination.

10 8. Plaintiff has timely satisfied all administrative prerequisites to the filing of the
11 statutory claims contained in this complaint.

12 9. This complaint was filed before the expiration of 90 days after issuance of a Notice
13 Right to Sue letter by the appropriate administrative agency.

14 GENERAL ALLEGATIONS

15 10. Plaintiff was offered a position as Vice Provost for Student Affairs at PSU on July
16 16, 2001, which was effective September 1, 2001.

17 11. Plaintiff began working for defendant PSU on September 10, 2001.

18 12. On October 8, 2005, defendant PSU terminated plaintiff's appointment as Vice
19 Provost for Student Affairs, by Roy W. Koch, Provost.

20 13. Defendant offered plaintiff a lower paying position as a non-tenured associate
21 professor in the Black Studies department. Plaintiff accepted this position.

22 14. Plaintiff was subjected to different terms and conditions of employment unlike white
23 employees.

24 15. Plaintiff was discriminated against because of his race in retention and promotion.

25 16. Plaintiff was subjected to unfair treatment regarding pay equity and faculty
26 appointment because of his race.

17. Plaintiff was subjected to internal investigation, and information was disseminated regarding him in a fashion that was not done with similarly situated senior white employees.

18. Defendant PSU historically presented an unwelcoming and discriminatory environment as it relates to African-American faculty and staff who were and are woefully unrepresented and underrepresented in positions of authority at Portland State University beneath the President. Treatment of plaintiff was part of a pattern and practice of discrimination against African-Americans at Portland State University.

19. Prior to filing this complaint, defendant PSU had actual notice of the claims as provided by ORS 30.275.

20. As a result of defendant PSU's unlawful conduct, plaintiff has suffered economic and non-economic damages, including emotional distress, depression, loss of self-esteem, loss of enjoyment of life, and impairment of his earning capacity. These damages are continuing. Plaintiff is entitled to recover payment of these damages in the amount of \$500,000.

21. As a further result of defendant PSU's actions, plaintiff is entitled to declaratory judgment that defendant discriminated against him on the basis of his race and prospective relief including, but not limited to, reinstatement.

STATEMENT OF CLAIMS

CLAIM ONE

(42 U.S.C. § 1981 – Race Discrimination)

22. Plaintiff re-alleges paragraphs 1 through 23.

23. Plaintiff was employed by defendant PSU as Vice Provost for Student Affairs from September 1, 2001 until October 8, 2005 when he was terminated from his position by Roy Koch, Provost.

24. Prior to his termination, plaintiff complained of discrimination, including race discrimination, against defendant PSU.

1 non-economic damages, in the form of pain and suffering, in the amount of \$500,000. Plaintiff
2 seeks recovery of all compensatory and punitive damages provided by law, in addition to reasonable
3 attorney's fees and costs pursuant to 42 U.S.C. § 2000e, *et seq.*, and 42 U.S.C. § 1988.

4 CLAIM THREE

5 (Violation of ORS 659A.030 – Race Discrimination)

6 35. Plaintiff re-alleges paragraphs 1 through 36.

7 36. According to ORS 659A.030(b), it is an unlawful employment practice “for an
8 employer, because of an individual’s race, religion, color, sex, national origin, marital status or age
9 if the individual is 18 years of age or older ... to discriminate against such an individual in
10 compensation or in terms, conditions, or privileges of employment.” Discrimination committed by
11 defendant, as alleged above, affected plaintiff’s employment opportunities, compensation,
12 privileges, terms and conditions of his employment and is a direct violation of this statute.

13 37. Plaintiff suffered from discrimination based on his race. Defendant PSU’s
14 employees’ discriminatory employment actions negatively affected plaintiff’s compensation, terms,
15 privileges and conditions of employment in violation of ORS 659A.030(b). As a result of defendant
16 PSU’s racial discrimination, plaintiff seeks his reinstatement of his position as Vice Provost of
17 Student Affairs at Portland State University, back pay, and all other damages provided by ORS
18 659A. 885.

19 CLAIM FOUR

20 (Wrongful Discharge)

21 38. Plaintiff re-alleges paragraphs 1 through 39.

22 39. Plaintiff’s actions constituted resistance and opposition to defendant PSU’s violation
23 of plaintiff’s rights to be free from discrimination on the basis of race and his right to the payment of
24 appropriate compensation and employment, all constituting important statutory employment rights,
25 related to plaintiff’s role as an employee.

1 40. A substantial motivating cause of defendant PSU's termination of plaintiff was his
2 pursuit of rights of important societal interest indicated by constitutional and statutory provisions
3 and case law, related to his role as an employee.

4 41. Plaintiff seeks economic, non-economic damages, and his reinstatement of his
5 position as Vice Provost of Student Affairs at Portland State University.

6 CLAIM FIVE

7 (42 U.S.C. § 1983)

8 42. Plaintiff re-alleges paragraphs 1 through 43.

9 43. Defendant PSU violated plaintiff's right to equal protection as guaranteed by the
10 Fourteenth Amendment to the Constitution of the United States by discriminating against him in the
11 terms, condition and privileges of his employment, including terminating his employment as a Vice
12 Provost in substantial part because of his race.

13 44. As a result of defendant PSU's Constitutional violations, plaintiff is entitled to the
14 remedies and relief provided by 42 U.S.C. § 1983. This includes damages for lost wages and
15 benefits, front pay in an amount to be determined at trial, and further, plaintiff is entitled to non-
16 economic damages for emotional distress and impairment of his earning capacity.

17 45. Reinstatement of plaintiff is feasible and plaintiff seeks his reinstatement as Vice
18 Provost of Student Affairs at Portland State University.

19 46. Plaintiff is entitled to declaratory judgment that defendant PSU violated his
20 Constitutional rights to equal protection.

21 47. As a further result of defendant PSU's actions, plaintiff is entitled to recover his
22 reasonable attorney's fees and costs incurred herein.

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Page 7 - COMPLAINT

LINDSAY, HART, NEIL & WEIGLER, LLP
1300 SW FIFTH AVENUE, SUITE 3400
PORTLAND, OREGON 97201-5640
PHONE: 503-226-7677 FAX: 503-226-7697

1 JURY TRIAL DEMAND

2 Plaintiff demands a jury trial.

3 Dated this ____ day of December, 2007.
4

5 LINDSAY, HART, NEIL & WEIGLER, LLP
6

7 By: 
8

Glen McClendon, OSB No. 733460

gmccclendon@lindsayhart.com

9 Edward T. Tylicki, OSB No. 974161

etylicki@lindsayhart.com

10 Attorneys for Plaintiff Douglas N. Samuels
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Multnomah Circuit Court
Multnomah County Circuit Court
P.O. Box 114
Portland, OR 97207

Receipt # 004900965 12/05/07 3:56 CHKO LER MULWB17

Case # 071214381 Samuels Douglas N/Oregon State Of

Civil Filing-Suit Ptf 189.00

AMOUNT TENDERED	189.00		
AMOUNT APPLIED	189.00	BALANCE DUE	0.00
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IN THE CIRCUIT COURT OF THE STATE OF OREGON
For the County of Multnomah

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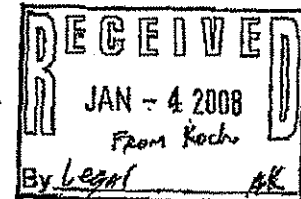
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ROY W. KOCH,

Defendant.

SUMMONS

Receipt with signed
C. 2.30 - 3.20 pm

To: Roy W. Koch, Provost and Vice President for Academic Affairs
Portland State University
1721 SW Broadway, 349 Cramer Hall (CH), Phone (503) 725-5257
Portland, OR 97201

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Glen McClendon, OSB # 73346

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TRIAL ATTORNEY IF OTHER THAN ABOVE (TYPED OR PRINTED) BAR NO.

STATE OF OREGON

County of Multnomah

ss.

I, the undersigned attorney of record for the plaintiff, certify that the foregoing is an exact and complete copy of the original summons in the above entitled action.

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ATTORNEY(S) FOR PLAINTIFF(S)

Glen McClendon
Lindsay, Hart, Neil & Weigler, LLP
1300 SW Fifth Avenue, Suite 3400
Portland, Oregon 97201
Telephone: (503) 226-7677

PROOF OF SERVICE

STATE OF _____ }
 County of _____ } st.

I hereby certify that I made service of the foregoing summons upon the individuals and other legal entities to be served, named below, by delivering or leaving true copies of said summons and the complaint mentioned therein, certified to be such by the attorney for the plaintiff, as follows:

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Upon _____, by delivering such true copy to him/her, personally and in person, at _____, on _____, 2008, at _____ o'clock _____ M.
 Upon _____, by delivering such true copy to him/her, personally and in person, at _____, on _____, 2008, at _____ o'clock _____ M.

Substituted Service Upon Individual(s)

Upon _____, by delivering such true copy at his/her dwelling house or usual place of abode, to-wit: _____, to _____, who is a person over the age of 14 years and a member of the household of the person served on _____, 2008, at _____ o'clock _____ M.
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Office Service Upon Individual(s)**

Upon _____, at the office which he/she maintains for the conduct of business at _____, by leaving such true copy with _____, the person who is apparently in charge, on _____, 2008, during normal working hours, at _____ o'clock _____ M.

Service on Corporations, Limited Partnerships or Unincorporated Associations Subject to Suit Under a Common Name

Upon _____, by (a) delivering such true copy, personally and in person, to _____, (NAME OF CORPORATION, LIMITED PARTNERSHIP, ETC.) who is or the " _____ thereof. OR (b) leaving such true copy with _____, the person who is apparently in charge of the office of _____, who is or the " _____ thereof, on _____, 2008, at _____ o'clock _____ M.
 *Specify registered agent, officer (by title), director, general partner, managing agent.

DATED _____, 2008.

SHERIFF

DEPUTY

I further certify that I am a competent person 18 years of age or older and a resident of the state of service or the State of Oregon, and that I am not a party to nor an officer, director, or employee of, nor attorney for any party, corporate or otherwise; that the person, firm or corporation served by me is the identical person, firm or corporation named in the action.

DATED _____

SIGNATURE

TYPE OR PRINT NAME

ADDRESS

Phone _____

The signature lines on the left should be used only by an Oregon county sheriff or deputy; all other servers complete certificate on the right. The Proof of Service above contains most, but not all, of the methods of service. For example, this form does not include proof of service on a minor or incompetent person. See ORCP 7D(2) and 7D(3) for complete service methods on particular parties.
 **Where substituted or office service is used, the plaintiff, as soon as reasonably possible, shall cause to be mailed a true copy of the summons and complaint to the defendant at the defendant's dwelling house or usual place of abode, together with a statement of the time, date and place at which such service was made. Use S-N Form No. 11.49 or equivalent.

TRUE COPY

DEC - 5 2007

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

DOUGLAS N. SAMUELS,

Plaintiff,

v.

THE STATE OF OREGON, by and through
THE OREGON STATE BOARD OF HIGHER
EDUCATION, by and through PORTLAND
STATE UNIVERSITY; and ROY W. KOCH,

Defendants.

Case No. **0712-14381**

COMPLAINT
(Race Discrimination; Wrongful Discharge)

**NOT SUBJECT TO MANDATORY
ARBITRATION**

NATURE OF THE ACTION

1. This is an action under Section 1981 of the Civil Rights Act of 1866, 42 U.S.C. § 1981 and Title VII of the Civil Rights Act of 1964 as amended by the Civil Rights Act of 1991, 42 U.S.C. § 2000e, to correct unlawful employment practices, to vindicate plaintiff's rights and the rights of other employees to work in environments free from racial discrimination, and to make plaintiff whole.

2. Plaintiff's complaint includes causes of action under Oregon state discrimination law, ORS 659A.030, and for common law wrongful discharge.

PARTIES

3. Plaintiff Douglas Samuels is an individual residing in Clark County, Washington. He is African-American.

4. Defendant Portland State University (hereinafter, "PSU") is a state higher educational institution. Its principal place of business is Portland, Oregon. At all material times, defendant employed more than 500 employees.

1 5. At all times material herein, defendant State of Oregon, by and through the State
2 Board of Higher Education, operated and controlled an institution of higher education known as
3 Portland State University (hereinafter, "State of Oregon" is referred to as "defendant PSU").

4 6. Roy W. Koch was and is the Provost and Vice President of Academic Affairs at
5 Portland State University.

6 ADMINISTRATIVE EXHAUSTION

7 7. Plaintiff filed an administrative complaint with the Oregon Bureau of Labor and
8 Industries, Civil Rights Division, which was transferred to the Equal Employment Opportunities
9 Commission, ("EEOC") in which he alleged racial discrimination.

10 8. Plaintiff has timely satisfied all administrative prerequisites to the filing of the
11 statutory claims contained in this complaint.

12 9. This complaint was filed before the expiration of 90 days after issuance of a Notice
13 Right to Sue letter by the appropriate administrative agency.

14 GENERAL ALLEGATIONS

15 10. Plaintiff was offered a position as Vice Provost for Student Affairs at PSU on July
16 16, 2001, which was effective September 1, 2001.

17 11. Plaintiff began working for defendant PSU on September 10, 2001.

18 12. On October 8, 2005, defendant PSU terminated plaintiff's appointment as Vice
19 Provost for Student Affairs, by Roy W. Koch, Provost.

20 13. Defendant offered plaintiff a lower paying position as a non-tenured associate
21 professor in the Black Studies department. Plaintiff accepted this position.

22 14. Plaintiff was subjected to different terms and conditions of employment unlike white
23 employees.

24 15. Plaintiff was discriminated against because of his race in retention and promotion.

25 16. Plaintiff was subjected to unfair treatment regarding pay equity and faculty
26 appointment because of his race.

1 17. Plaintiff was subjected to internal investigation, and information was disseminated
2 regarding him in a fashion that was not done with similarly situated senior white employees.

3 18. Defendant PSU historically presented an unwelcoming and discriminatory
4 environment as it relates to African-American faculty and staff who were and are woefully
5 unrepresented and underrepresented in positions of authority at Portland State University beneath
6 the President. Treatment of plaintiff was part of a pattern and practice of discrimination against
7 African-Americans at Portland State University.

8 19. Prior to filing this complaint, defendant PSU had actual notice of the claims as
9 provided by ORS 30.275.

10 20. As a result of defendant PSU's unlawful conduct, plaintiff has suffered economic
11 and non-economic damages, including emotional distress, depression, loss of self-esteem, loss of
12 enjoyment of life, and impairment of his earning capacity. These damages are continuing. Plaintiff
13 is entitled to recover payment of these damages in the amount of \$500,000.

14 21. As a further result of defendant PSU's actions, plaintiff is entitled to declaratory
15 judgment that defendant discriminated against him on the basis of his race and prospective relief
16 including, but not limited to, reinstatement.

17 **STATEMENT OF CLAIMS**

18 **CLAIM ONE**

19 (42 U.S.C. § 1981 – Race Discrimination)

20 22. Plaintiff re-alleges paragraphs 1 through 23.

21 23. Plaintiff was employed by defendant PSU as Vice Provost for Student Affairs from
22 September 1, 2001 until October 8, 2005 when he was terminated from his position by Roy Koch,
23 Provost.

24 24. Prior to his termination, plaintiff complained of discrimination, including race
25 discrimination, against defendant PSU.

26

1 25. Defendant PSU's actions toward plaintiff constituted discrimination on the basis of
2 race in the terms and conditions of plaintiff's employment in violation of 42 U.S.C. § 1981.

3 26. Defendant PSU's termination of plaintiff's employment was due in substantial part
4 to plaintiff's race in violation of 42 U.S.C. § 1981.

5 27. As a result of defendant PSU's conduct, plaintiff suffered lost wages and benefits of
6 employment.

28. Reinstatement of plaintiff is feasible and plaintiff seeks his reinstatement as Vice Provost of Student Affairs at Portland State University.

9 29. Plaintiff is entitled to an award of attorney's fees, expert witness fees and costs.
10 incurred herein, pursuant to one or more of the following: 42 U.S.C. § 1988.

11 CLAIM TWO

12 (42 U.S.C. § 2000e - Race Discrimination)

13 30. Plaintiff re-alleges paragraphs 1 through 31.

14 31. Defendant PSU subjected plaintiff to discriminatory treatment on the basis of race
15 and terminated plaintiff's employment a Vice Provost in violation of Title VII of the Civil Rights
16 Act of 1964 and the Civil Rights Act of 1991, and plaintiff is entitled to all appropriate remedies.

17 32. 42 U.S.C. § 2000e-2(a) provides: "It shall be an unlawful employment practice for
18 an employers" to discharge an individual "or otherwise to discriminate against any individual with
19 respect to his compensation, terms, conditions, or privileges of employment because of such
20 individual's race, color, religion, sex, or national origin ..."

21 33. During the course of plaintiff's employment with defendant PSU, plaintiff suffered
22 from discrimination based on his race. Incidents of racial discrimination, committed by defendant
23 PSU, resulted in plaintiff being denied his position and adversely affected plaintiff's terms,
24 conditions, and privileges of his employment in violation of 42 U.S.C. § 2000e-2(a).

25 34. As a result of defendant PSU's racial discrimination directed against plaintiff, he has
26 suffered economic damages in the form of lost wages, in an amount to be determined at trial, and

1 non-economic damages, in the form of pain and suffering, in the amount of \$500,000. Plaintiff
2 seeks recovery of all compensatory and punitive damages provided by law, in addition to reasonable
3 attorney's fees and costs pursuant to 42 U.S.C. § 2000e, *et seq.*, and 42 U.S.C. § 1988.

4 CLAIM THREE

5 (Violation of ORS 659A.030 – Race Discrimination)

6 35. Plaintiff re-alleges paragraphs 1 through 36.

7 36. According to ORS 659A.030(b), it is an unlawful employment practice "for an
8 employer, because of an individual's race, religion, color, sex, national origin, marital status or age
9 if the individual is 18 years of age or older ... to discriminate against such an individual in
10 compensation or in terms, conditions, or privileges of employment." Discrimination committed by
11 defendant, as alleged above, affected plaintiff's employment opportunities, compensation,
12 privileges, terms and conditions of his employment and is a direct violation of this statute.

13 37. Plaintiff suffered from discrimination based on his race. Defendant PSU's
14 employees' discriminatory employment actions negatively affected plaintiff's compensation, terms,
15 privileges and conditions of employment in violation of ORS 659A.030(b). As a result of defendant
16 PSU's racial discrimination, plaintiff seeks his reinstatement of his position as Vice Provost of
17 Student Affairs at Portland State University, back pay, and all other damages provided by ORS
18 659A. 885.

19 CLAIM FOUR

20 (Wrongful Discharge)

21 38. Plaintiff re-alleges paragraphs 1 through 39.

22 39. Plaintiff's actions constituted resistance and opposition to defendant PSU's violation
23 of plaintiff's rights to be free from discrimination on the basis of race and his right to the payment of
24 appropriate compensation and employment, all constituting important statutory employment rights,
25 related to plaintiff's role as an employee.

26

1 40. A substantial motivating cause of defendant PSU's termination of plaintiff was his
2 pursuit of rights of important societal interest indicated by constitutional and statutory provisions
3 and case law, related to his role as an employee.

4 41. Plaintiff seeks economic, non-economic damages, and his reinstatement of his
5 position as Vice Provost of Student Affairs at Portland State University.

6 CLAIM FIVE

7 (42 U.S.C. § 1983)

8 42. Plaintiff re-alleges paragraphs 1 through 43.

9 43. Defendant PSU violated plaintiff's right to equal protection as guaranteed by the
10 Fourteenth Amendment to the Constitution of the United States by discriminating against him in the
11 terms, condition and privileges of his employment, including terminating his employment as a Vice
12 Provost in substantial part because of his race.

13 44. As a result of defendant PSU's Constitutional violations, plaintiff is entitled to the
14 remedies and relief provided by 42 U.S.C. § 1983. This includes damages for lost wages and
15 benefits, front pay in an amount to be determined at trial, and further, plaintiff is entitled to non-
16 economic damages for emotional distress and impairment of his earning capacity.

17 45. Reinstatement of plaintiff is feasible and plaintiff seeks his reinstatement as Vice
18 Provost of Student Affairs at Portland State University.

19 46. Plaintiff is entitled to declaratory judgment that defendant PSU violated his
20 Constitutional rights to equal protection.

21 47. As a further result of defendant PSU's actions, plaintiff is entitled to recover his
22 reasonable attorney's fees and costs incurred herein.

23 ///

24 ///

25 ///

26 ///

1 PRAYER FOR RELIEF

2 WHEREFORE, plaintiff requests the court to:

3 1. Declare defendants in violation of the statutory provisions under which plaintiff
4 brings his action and grant a permanent injunction enjoining defendant PSU from engaging in any
5 discriminatory employment practice, on such terms as the court may direct.6 2. Order defendants to make plaintiff whole by compensating him for past and future
7 lost earnings and benefits of employment, lost earning capacity, and his reinstatement of his position
8 as Vice Provost of Student Affairs at Portland State University9 3. Order defendants to pay plaintiff an award of compensatory damages for non-
10 pecuniary losses, including physical and emotional injury, pain and suffering, mental anguish,
11 humiliation, and embarrassment, and loss of enjoyment of life as available on each of plaintiff's
12 claims for relief.13 4. Order defendants to pay plaintiff liquidated damages and punitive damages as
14 available on each of plaintiff's claims for relief.15 5. Award plaintiff his costs of suit and his reasonable attorney's fees, costs and expert
16 witness fees pursuant to 42 U.S.C. § 1988; 42 U.S.C. § 20003-5(k); ORS 659A.885; and ORS
17 20.107 as available on each of plaintiff's claims for relief.18 6. Order defendants to pay prejudgment and post-judgment interest, as appropriate, on
19 all amounts due to plaintiff as a result of this action.20 7. Order such further or alternative relief in favor of plaintiff as the court deems
21 appropriate.

22 ///

23 ///

24 ///

25 ///

26

JURY TRIAL DEMAND

Plaintiff demands a jury trial.

Dated this _____ day of December, 2007.

LINDSAY, HART, NEIL & WEIGLER, LLP

By: 

Glen McClendon, OSB No. 733460

gmcclendon@lindsayhart.com

Edward T. Tylicki, OSB No. 974161

etylicki@lindsayhart.com

Attorneys for Plaintiff Douglas N. Samuels

01/04/08 17:18 FAX

012

Multnomah Circuit Court
Multnomah County Circuit Court
P.O. Box 114
Portland, OR 97207

Receipt # 004900965 12/05/07 3:56 CHKO LER MULNE17

Case # 071214381 Samuels Douglas N/Oregon State Of

Civil Filing-Suit Rtf 189.00

AMOUNT TENDERED	189.00		
AMOUNT APPLIED	189.00	BALANCE DUE	0.00
CHANGE	0.00		
PAYOR SAMUELS DOUGLAS N		Receipt # 004900965	

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

IRVING ROBINSON,

Plaintiff,

v.

MULTNOMAH COUNTY and STATE OF
OREGON,

Defendants.

Case No.

0712-15758

SUMMONS

TO: STATE OF OREGON, DEFENDANT, C/O DEPARTMENT OF JUSTICE, 1515 SW 5TH AVENUE, SUITE 410,
PORTLAND, OREGON

You are hereby required to appear and defend the complaint filed against you in the above entitled action within thirty (30) days from the date of service of this summons upon you, and in case of your failure to do so, for want thereof, plaintiff(s) will apply to the court for the relief demanded in the complaint.

NOTICE TO THE DEFENDANT: READ THESE PAPERS CAREFULLY

You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal paper called a "motion" or "answer." The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff's attorney, or, if the plaintiff does not have an attorney, proof of service on the plaintiff.

If you have any questions, you should see an attorney immediately. If you need help in finding an attorney, you may call the Oregon State Bar's Lawyer Referral Service at (503) 684-3763 or toll-free in Oregon at (800) 452-7636.


SIGNATURE OF ATTORNEY FOR PLAINTIFF

Kevin E. Lucey, OSB #92379
1412 American Bank Building
621 SW Morrison St.
Portland, Oregon 97205
Tel: 503/ 222-7178

STATE OF OREGON, County of Multnomah) ss.

I, the undersigned attorney of record for the plaintiff, certify that the foregoing is an exact and complete copy of the original summons in the above entitled action.


ATTORNEY OF RECORD FOR PLAINTIFF

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are hereby directed to serve a true copy of this summons, together with a true copy of the complaint mentioned therein, upon the individual(s) or other legal entity(ies) to whom or which this summons is directed, and to make your proof of service on the reverse hereof or upon a separate similar document which you shall attach hereto.


ATTORNEY OF RECORD FOR PLAINTIFF

1
2
3
4 IN THE CIRCUIT COURT OF THE STATE OF OREGON
5 FOR THE COUNTY OF MULTNOMAH

6 IRVING ROBINSON,

7 Plaintiff,

8 v.

9 MULTNOMAH COUNTY and STATE OF
10 OREGON,

11 Defendants.

Case No. **0712-15758**

COMPLAINT

(Negligence; False Imprisonment)

(Claim for more than \$10,000; Not subject to
mandatory arbitration)

12
13 Plaintiff alleges:

14 FACTS COMMON TO ALL CLAIMS FOR RELIEF

15 1.

16 Plaintiff is a former inmate who was in the custody of Multnomah County. Plaintiff
17 brings his Oregon common law claims pursuant to the Oregon Tort Claims Act, ORS 30.260 *et*
18 *seq.* Plaintiff has complied with the Oregon Tort Claims Act by notifying defendants of his
19 intent to sue within 180 days of plaintiff's loss alleged herein.

20 2.

21 Defendant Multnomah County is a duly organized county under Oregon law, ORS
22 Chapters 201-215, and is a public body liable for the tortious conduct of its agents and
23 employees pursuant to ORS 30.260(4) and 30.265(1). All employees of Multnomah County
24 herein were acting within the course and scope of their employment at all times material to this
25 Complaint. Multnomah County is responsible for the torts of its employees.

Pg 1 COMPLAINT

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klucey22@yahoo.com

1 3.

2 Multnomah County Courthouse employees and Multnomah County District Attorney's
3 office employees are employees of the State of Oregon. At all times material to this Complaint,
4 all State employees herein were acting in the course and scope of their employment. The State
5 of Oregon is responsible for the torts of its employees.

6 4.

7 On or about September 21, 2006, Portland Police arrested plaintiff on criminal charges in
8 Multnomah County Case No. 0609-52029. Plaintiff was jailed and was not released pending
9 trial.

10 5.

11 Oregon Revised Statute 136.290 provides that, "a defendant shall not remain in custody
12 pending commencement of the trial of the defendant more than 60 days after the time of arrest
13 unless the trial is continued with the express consent of the defendant." Absent the consent of
14 the defendant or certain exceptions to the rule that are not applicable here, the statute provides
15 that after 60 days has expired, "the court shall release the defendant."

16 6.

17 Plaintiff did not waive his right to be tried within 60-days of his arrest. That 60-day
18 period ended November 20, 2006. However, plaintiff was not released on that date.

19 7.

20 About three weeks later, on December 8, 2006, a Multnomah County Circuit Court Judge
21 ordered plaintiff's immediate release. By reason and belief, either the judge's staff did not
22 provide the County with a copy of this Order or a County jail employee did not correctly record
23 this Order and its receipt. In either case, again the jail did not release plaintiff upon the Court's
24 order.

25 Pg 2 COMPLAINT

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1 8.

2 On or about February 27, 2007, plaintiff was convicted by a jury on his criminal charge
3 and sentenced to ten days jail with credit for time served.

4 9.

5 The Multnomah County jail released plaintiff on February 27, 2007. As of that date,
6 plaintiff had been held 108 days past November 20, 2006, when he first should have been
7 released. Accounting for his 10 day sentence, plaintiff was held 98 days illegally.

8 10.

9 As a result of being held in jail illegally for up to 98 days, plaintiff suffered confinement
10 and concomitant emotional distress to his noneconomic damage of \$100,000. As a further result,
11 plaintiff lost wages to his economic damage of approximately \$6,000.

12 FIRST CLAIM FOR RELIEF – NEGLIGENCE – Count One
13 (Against Multnomah County Only)

14 11.

15 Multnomah County and its employees had a duty to use reasonable care to comply with
16 Oregon law. Defendant breached this duty by not releasing plaintiff on November 20, 2006.
17 This negligence caused plaintiff to incur the damages alleged in paragraph 10, above, and said
18 damages were foreseeable.

19 FIRST CLAIM FOR RELIEF - NEGLIGENCE - Count Two
20 (Against Multnomah County Only)

21 12.

22 Multnomah County and its employees had a duty to use reasonable care to comply with
23 the court order issued on December 8, 2006, to immediately release plaintiff. Defendant
24 breached this duty by failing to release plaintiff on December 8, 2006. This negligence caused
25

Pg 3 COMPLAINT

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1 plaintiff to be held approximately 72 days too many, and caused plaintiff to incur the damages
2 alleged in paragraph 10, above, and said damages were foreseeable.

3
4 FIRST CLAIM FOR RELIEF – NEGLIGENCE – COUNT THREE
(Against State of Oregon Only)

5 13.

6 State of Oregon and its employees had a duty to use reasonable care to comply with
7 Oregon law. Defendant breached this duty by not effectuating plaintiff's release on November
8 20, 2006. This negligence caused plaintiff to incur the damages alleged in paragraph 10, above,
9 and said damages were foreseeable.

10
11 FIRST CLAIM FOR RELIEF - NEGLIGENCE - COUNT FOUR
(Against State of Oregon Only)

12 14.

13 State of Oregon and its employees had a duty to use reasonable care to provide the
14 Multnomah County jail with a copy of the judge's order issued on December 8, 2006. By
15 reason and belief, a member of the judge's staff breached this duty by failing to provide
16 Multnomah County with a copy of the order on December 8, 2006. This negligence caused
17 plaintiff to be held approximately 72 days too many, caused plaintiff to incur the damages
18 alleged in paragraph 10, above, and said damages were foreseeable.

19
20 SECOND CLAIM FOR RELIEF – FALSE IMPRISONMENT – COUNT ONE
21 (Against Multnomah County Only)

22 15.

23 Multnomah County intentionally and unlawfully caused plaintiff's confinement on
24 November 20, 2006. Plaintiff was aware of the confinement. As a result of this false
25 imprisonment, plaintiff suffered the damages alleged in paragraph 10, above.

Pg 4 COMPLAINT

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1 SECOND CLAIM FOR RELIEF - FALSE IMPRISONMENT - COUNT TWO
2 (Against Multnomah County Only)

3 16.

4 Multnomah County intentionally and unlawfully caused plaintiff's confinement on
5 December 8, 2006. Plaintiff was aware of the confinement. As a result of this false
6 imprisonment, plaintiff was held illegally for 72 days and suffered the damages alleged in
7 paragraph 10, above.

8 SECOND CLAIM FOR RELIEF - FALSE IMPRISONMENT - COUNT THREE
9 (Against State of Oregon Only)

10 17.

11 The State of Oregon intentionally and unlawfully caused plaintiff's confinement on
12 November 20, 2006. Plaintiff was aware of the confinement. As a result of this false
13 imprisonment, plaintiff suffered the damages alleged in paragraph 10, above.

14 SECOND CLAIM FOR RELIEF - FALSE IMPRISONMENT - COUNT FOUR
15 (Against State of Oregon Only)

16 18.

17 The State of Oregon intentionally and unlawfully caused plaintiff's confinement on
18 December 8, 2006. Plaintiff was aware of the confinement. As a result of this false
19 imprisonment, plaintiff was held illegally for 72 days and suffered the damages alleged in
20 paragraph 10, above.

21
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Pg 5 COMPLAINT

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1 WHEREFORE, on plaintiff's first claim counts 1 and 2 and second claim counts 1 and 2,
2 plaintiff prays for a judgment against Multnomah County for \$100,000 noneconomic damages,
3 \$6,000 economic damages and for his costs and disbursements incurred herein.

4 On plaintiff's first claim counts 3 and 4 and second claim counts 3 and 4, plaintiff prays
5 for a judgment against the State of Oregon for \$100,000 noneconomic damages, \$6,000
6 economic damages and for his costs and disbursements incurred herein.

7

8

9

10 DATED this 26 day of December, 2007.

11

12

By: KE Lucey
Kevin E. Lucey, OSB #92379
Attorney for Plaintiff

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Pg 6 COMPLAINT

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